

Office of Chief Counsel
Internal Revenue Service
Memorandum

Number: **200423001**
Release Date: 6/4/04
UIL: 9999.98-00
FILES-152773-03
CC:PA:DPL:B01:SPowers

date: October 20, 2003

to: Bill N.Timm, Associate Area Counsel
CC:SB:3:ATL:1

from: Charles B. Christopher, Chief, Branch 1 (Disclosure and Privacy Law) CC:PA:DPL:B01

subject: MOU Review

You inquired about the legality of proposed changes and additions by an addendum to the September 21, 1998 Implementing Agreement on the Coordination of Tax Administration Between Internal Revenue Service and Georgia Department of Revenue. The Proposed changes and additions¹ are to Part II, Section A (Information To Be Exchanged Or Provided On A Continuing Basis, Types Of Returns And Return Information), as follows:

2. IRS will provide:

a) Returns and Revenue Agent Reports

(6) Form 1065 including returns and K-1 partnership data for TEFRA and NON-TEFRA returns

xxx

(8) Form 1120S including returns and K-1 partnership data for TEFRA and NON-TEFRA returns

xxx

(14) The IRS will provide W-4's that are:
a. in excess of 10 exemptions

¹ The changes and additions are underscored.

- b. adjusted by the IRS
- c. exempt (whether allowable or unallowable)
- d. identified as abusive tax shelter schemes

26 U.S.C. § 6103(d) provides that tax information with respect to specified taxes shall be open to inspection by state agencies, bodies, or commissions, or their legal representatives, charged under the laws of the state with tax administration responsibilities. Such inspection is permitted only for state tax administration purposes. Section 6103(d)(1) requires a written request from state tax officials as a precondition to disclosure. Because most state agencies request continuing disclosure, this statutory request requirement may be satisfied by means of a basic agreement between the IRS and the state tax agency, and an implementing agreement between the IRS Area and state officials. See *Smith v. United States*, 964 F.2d 630, 632-33 (7th Cir. 1992). The federal tax data that may be furnished to state tax agencies pursuant to section 6103(d)(1) is limited to taxes imposed by the specific Internal Revenue Code chapters described in section 6103(d)(1). The proposed changes and additions by an addendum to the September 21, 1998 Implementing Agreement are modifications relating to disclosures of return and return information with respect to taxes imposed by chapter 1. These changes fall within the purview of section 6103(d)(1) and therefore are permissible.

One concern we would like to bring to your attention, however, is that some of the original agreement's language and information needs updating. For example, in section II (A)(2)(e) of the original agreement, IRM 1272(33)43.11 is not the current citation (the new citation is 11.3.32.12); the Atlanta Service Center is now known as the Atlanta *Campus*; district offices of the Service are now referred to as "*areas*" and some of the signatories of the original agreement may not be the same individuals.² In consideration of some of these inconsistencies, creating a new agreement rather than amending the original may be an option to consider.

² Some of these changes are a result of the Internal Revenue Service Restructuring and Reform Act of 1998.